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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,944	05/25/2001	John Slegers	440436	1080
23548	7590	07/23/2004	EXAMINER	
LEYDIG VOIT & MAYER, LTD 700 THIRTEENTH ST. NW SUITE 300 WASHINGTON, DC 20005-3960			FORTUNA, ANA M	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/787,944	Applicant(s) SLEGERS, JOHN	
	Examiner Ana M Fortuna	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, and 5-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claims 1-3, 5-22 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the connecting conduits feeding the filter and removing residue and filtered material from the filter and recirculating back to the system, the feed by-pass (94, 98), directing the feed to the first filter fluid path or second filter fluid path, pumps, control valves connected to the system.
2. Claims 1-3, and 5-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is incomplete as to the elements of the system defining the flow paths. Claim 2 is unclear as to whether tangential filters are intended. In claim 3, the term “common (filter) to both flow path is not understood as to what is intended, since individuals filters are show in the system (seed figures). Claim 5, depending on claim 3, do not clearly define the structure of the filter or combination of filters defining the flow paths. Claim 6 does not add further additional limitation to the structure of claim 5. Claim 7 is indefinite as to whether the manifold (s) are inlet manifold(s) or outlet manifold(s). In claim 10, the term “ flow path having a lower volume” is unclear as to whether the conduits and manifolds and filter, that may define the “flow path” are smaller in structure”. In claim 11, the term “nuclides” is unclear as to whether “includes” is intended. Claim 12 is unclear as to whether the fluid drained is feed, filtered fluid or fluid separated with the filter, e.g. retentate or permeated drained conduits. In

claim 14, line 2, the term “din” is unclear as to whether “included in” is intended. In claim 15, the term “in response to said filtration of fluid circulating around the second continuous flow path” is unclear as to what filtration factor is considered for directing the fluid to the second fluid path or (manifold connected to the second filter or filters, e.g. fluid pressure, concentration, etc.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0095850 A1(hereinafter ‘850). Reference ‘850 discloses a filtration system comprising a plurality of filters (12, 16), defining a filter flow path, including a tangential filter medium (spiral and tubular filtration media respectively, a manifold connected to each filter for circulating fluid through the manifold, the filter in parallel arrangement and adapted to pass fluid from the manifold to at least one filter (Figure 2, conduits defined by the pump, inlet conduit and distribution conduit including valves, and conduit 15, page 13, lines 12-24,).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1723

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-7, 9, 10, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0095850 A1 (hereinafter '840). Reference '840, discussed above, teaches the flow path including the filters, the reservoir, (11), and means for restricting flow, e.g. valves, etc., '850 fails to disclose the second continuous flow path having a lower volume than the first continuous flow path. Reference '850 removes filtrate or liquid volume in the first manifold circuit, or filtration step through filter 12, which reduces the feed circulating in the first filter, therefore, the volume circulating in the second flow path, when operation is switched to a second mode, is lower than the first volume (note that the volume has been considered in terms of the amount of fluid circulating in the path means or conduits, filter and vessel).

7. Response to Arguments.

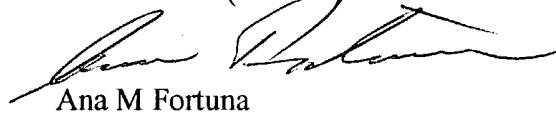
Rejection over Hartman has been withdrawn, based on consideration of the claims amended, however a new ground of rejection is applied to part of the claims above, in addition, all the claims are rejected under 112 second paragraph because the structure of the apparatus is not clearly defined. Applicant argues that the term "flow path" is defined in the art as conduits, channels, manifolds, filters, etc., which define a fluid circuit. In the present invention, it is not clear whether is a filter or the manifold, or the conduits (retentate conduits, or its combination. The specification defines flow path element 101 which is defined by the interior of the filter, and also define the second flow path as a combination of elements, which are included in the claims (pages 11 and 12, last paragraphs). The term flow path having lower volume than the first flow path, is unclear, since the flow path is not defined in the claims in terms of its structure is the

volume of the each path can not be compared. It is not clear whether the filter flow path is smaller or the total conduits or manifolds are shorter or the volume circulating through the path is smaller, the volume has been assume to be the volume of fluid circulating through the path, if applicant disagreed with the interpretation, please correct.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana M Fortuna whose telephone number is (571) 272-1141. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ana M Fortuna  
Primary Examiner  
Art Unit 1723